

Comments in response to MB Docket 04-233 (Report on Broadcast Localism and Notice of Proposed Rulemaking)

The Commission's proposals in MB docket 04-233, like so many other things government comes up with, looks good on the surface, but in reality will do little to encourage localism and in reality may harm it. I say this based on my observations in the over 17 years I have spent in rural market radio. While there may be specific problems involving specific licensees in specific markets, the current proposals are in my way the wrong way to go about fixing them.

There are two ways I can explain this. One is to compare this to the No Child Left Behind legislation. Like the current commission proposal, NCLB's goals are good, but the requirements to get there are not. This is particularly true when you consider the amount of paperwork required, which many school officials say takes too much time away from actual learning. The congressman who represents my area frequently cites that fact when topic comes up at town hall meetings. (By the way, he was one of the few Republican members of congress to vote against NCLB.)

Another way to explain this is to compare this to an unfunded mandate. I can't begin to count the number of times I've covered local governmental meetings where this subject has come up. Currently, two of the communities to which the stations I am currently associated with are licensed to are having to spend substantial sums of money to deal with wastewater issues, in one case after having spent considerable money on meeting water quality requirements only to have those requirements change to require addressing something else. These two communities are in a county that is not exactly the most affluent in Kansas, and the substantial rate increases required place a hardship on many people. The commission needs to take a hard look at what it's proposing will cost small market radio, where the many stations are small businesses.

The NPRM seeks comments on a number of specific proposals, which I now will address in detail.

Regarding the proposal relating to main studios, I support retention of the current regulations. A major issue I have with the NPRM proposal is that it, in my opinion, overly narrows what constitutes a community and fails to take into account the overlap in community interests that is often seen in rural areas.

As one example, I cite the situation involving the school districts in my area. One community of license of a station I work for is, because of decisions made over 40 years ago, lies in four different school districts. Those districts extend into three other counties and include seven other incorporated cities and one unincorporated community that would meet the current requirements to be a community of license. One of those seven cities is located less than two miles from the boundary of the school district that includes another city of license in this

station group, that district including one other community and also crossing a county line. Another city of license in this group is part of a large consolidated district that includes six communities. Additionally, many school districts in my area are involved in cooperative organizations that provide special education and other services.

Another example deals with overlaps among community organizations and where people live and work. Many of the social service organizations I work with, while based for the most part in the city where our main studios are operate in multiple counties. Likewise this is also the case for a number of governmental agencies, with our state's primary social service agency having consolidated local county offices into regional offices in recent years (This was a very hot issue in the county where two of our cities of license are located, as their local office was closed.) There is also the issue of people living in one community and working in another, something very common in my area and that goes both ways. In my area, an example of this involves the manager of a major employer in one of our communities. This person lives just outside of another of our communities, where he serves as president of the local board of education.

In addition to the issues of costs involved with having to maintain multiple main studios, it's been my experience that having a main studio in the city of license does not necessarily mean improved service to that community. I am familiar with a case in a town where, while despite having a staffed main studio, personnel there had minimal involvement with community leaders, despite efforts by another employee of the then licensee to change the situation.

There are a couple of things that could be changed with the current main studio rules that I think would improve service issues that some have raised, particularly as it relates to non-commercial licensees. One change would be to modify the rules relating public inspection files to allow them to be located either at the main studio or, in those cases where the commission has granted waivers allowing a station to maintain it's main studio outside the service area (in some cases hundreds of miles from the community of license), to have the file at an accessible location within the service area. The second would be to allow some flexibility relating to staffing. Specifically, as long as there is a management presence in the service area, I would suggest allowing a licensee to use part time personnel to provide required staffing, and also would permit licensees flexibility as to what hours the main studio is staffed based on what business hours are typically observed in a community.

In regard to unattended operation of broadcast stations, I generally support retention of the current regulations. A lot of what brought about this part of the NPRM stemmed from what's commonly referred to as the "Minot incident". Rules regarding unattended operation, in my opinion, could be better addressed as part of the commission's on-going review of the Emergency Alert System. The technology is already there to address the issues that have been raised without

having to resort to the old rules, and in this case the smaller stations have been the ones who have made this work. This is not to say there are a few limited cases (relating to Class A AM stations and other PEP facilities), but flexibility is what is needed, not a one size fits all approach.

The major issue I have with minimum programming requirements proposed in the NPRM is requiring specific percentages for specific types of programming. Some supporters of what is included in the NPRM have said there should be a specific amount of time allocated to certain things. Earlier in this proceeding, there were comments filed that in essence said weather information should not be considered as part of news programming. To that I say this: ask people in Greensburg, Kansas how important weather reporting is.

I oppose the requirements for community advisory boards as proposed in the NPRM. Any licensee, especially in a smaller community, has to be responsive to community needs or they won't survive – it's as simple as that. A concern I have about this is whether this is an attempt to force broadcast licensees to take specific stands on specific issues which they and the majority of residents in their service area may not agree with. A lot of this in my view has to deal with some proponents idea that if you had these boards, certain kinds of programming, including some syndicated programs, would be curtailed or (what's probably more accurate) eliminated altogether and replaced with other specific programming, some local but mostly syndicated. This is also a case where what's being proposed could end up having a much different outcome than what is intended. As an example, could a station licensed to San Francisco be required to air programs or viewpoints of a certain Kansas Church that many Christian broadcasters will not touch with a pole of ANY length.

With respect to Network Affiliation Contracts, this is an issue that in part could dealt with separately. The commission may have an opportunity to do so in the near future, as I understand there has been a filing made with the commission involving issues that have arisen relating to affiliation agreements with a regional radio network that is currently engaged in litigation with two licensees. I would support a change in regulations to provide protection in cases where a network program included expletive material that a licensee may not be aware was coming or did not otherwise have an opportunity to screen in advance.

With respect to voice tracking, there are a number of things the Commission needs to keep in mind. While it appears this practice has only been in existence since the mid 1990's, it in reality dates back as far as there have been broadcast automation systems. I can remember back into the 1970's listening to radio stations where the disc jockey programs were produced outside the studio. It's nothing new, just different technology that allows it to be done in shorter time frames. The Commission needs to differentiate between voice tracking that is done at the local station level and that done outside the studio in addressing this issue.

In closing, the Commission needs to take a closer look at what the current proposals would do in the real world. A one size fits all approach is not what's needed. There are issues to be sure, but they involve a relatively few number of licensees, and the Commission needs to deal with those issues individually and not punish those broadcasters that are serving their communities. One thing that I do encourage the Commission to do is hold the people who are really making some of the decisions that brought this about accountable... the venture capitalists and speculators who are forcing some of the larger broadcast organizations to do things that in the end led to this proceeding in the first place.

Sincerely

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